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**UTAH LABOR COMMISSION**

**ZACHARY R. COLLARD,**

**Petitioner,**

**vs.**

**MARATHON MAINTENANCE INC. and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 07-0650**

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Zachary R. Collard asks the Utah Labor Commission to review Administrative Law Judge Holley's denial of Mr. Collard's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Collard claims workers' compensation benefits against Marathon Maintenance Inc. and its insurance carrier, Workers Compensation Fund, (referred to jointly as "Marathon" hereafter) for alleged injuries from a work accident on September 7, 2006. Marathon concedes that Mr. Collard was injured in the September 2006 accident, but denies that his continuing complaints of injury are caused by that accident. Judge Holley held an evidentiary hearing on Mr. Collard's claim and referred the medical aspects of the claim to an impartial panel of medical experts. Then, relying on the panel's report, Judge Holley denied Mr. Collard's claim on the grounds that Mr. Collard's work accident did not cause his continuing problems.

In requesting Commission review of Judge Holley's decision, Mr. Collard contends that Judge Holley should have asked the medical panel to consider additional medical opinions. Mr. Collard also argues that the panel did not address all of Mr. Collard's medical complaints.

**FINDINGS OF FACT**

The Commission adopts Judge Holley's findings of facts, summarized as follows. On September 7, 2006, while Mr. Collard was operating a track hoe for Marathon, the track hoe tip over. Mr. Collard struck his left shoulder and side on the interior of the cab. He felt immediate pain in his left shoulder and pain in his neck and chest the following day.

Due to the different diagnoses of Mr. Collard's injuries from the various physicians who treated or examined Mr. Collard, Judge Holley appointed a medical panel to evaluate the medical

**ORDER AFFIRMING ALJ'S DECISION**  
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aspects of Mr. Collard's claim. The panel reviewed all of Mr. Collard's medical records, his diagnostic studies, and the opinions of other physician. The panel also personally examined Mr. Collard. Based on all of this information, the panel concluded that there was "no objectively documentable causal connection" for Mr. Collard's current problems and the work injury of September 7, 2006.

Mr. Collard filed an objection to the medical panel report, and submitted a June 10, 2008, letter from Dr. Bova, his treating physician. Mr. Collard asked that Judge Holley reconvene the medical panel to consider Dr. Bova's comments. Judge Holley declined to do so, on the grounds that the substance of Dr. Bova's opinion was already contained in the medical records that had previously been provided to the panel.

**DISCUSSION AND CONCLUSION OF LAW**

The only issue before the Commission is whether there is a medical connection between Mr. Collard's current problems and his work injury of September 7, 2006. The record contains a wide range of opinions on this question. It was therefore appropriate for Judge Holley to refer the medical aspects of Mr. Collard's claim to an impartial medical panel.

The Commission has carefully reviewed the medical record and agrees with Judge Holley that the medical panel's opinion is persuasive. The panel was not affiliated with either party. It had access to all Mr. Collard's medical records and diagnostic studies. The panel had the opportunity to consider all previous medical opinions, and to personally examine Mr. Collard. The panel's report is comprehensive, well-supported and well-reasoned. And, although Mr. Collard asserts that the panel did not consider all of his alleged medical problems, the Commission views the panel report as providing a comprehensive assessment of all Mr. Collard's alleged work injuries. For these reasons, the Commission accepts the panel's opinion and concludes that Mr. Collard is not entitled to additional workers' compensation benefits related to the accident at Marathon on September 7, 2006.

**ORDER**

The Commission affirms Judge Holley's decision. It is so ordered.

Dated this 30<sup>th</sup> day of October, 2008.

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Sherrie Hayashi  
Utah Labor Commissioner

**IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.**

### **NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.